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07                   UNITED STATES DISTRICT COURT  
08                   WESTERN DISTRICT OF WASHINGTON  
09                   AT SEATTLE

10 LUCIANO TONELLI,    ) CASE NO. C05-0376-RSL-MAT  
11    )  
12 Plaintiff,    )  
13    )  
14 v.    ) ORDER DENYING MOTION FOR  
15 SARGENT AUTRY, et al.,    ) APPOINTMENT OF COUNSEL  
16    )  
17 Defendants.   )  
18    )  
19    )  
20    )

21    Plaintiff is a Washington state prisoner proceeding *pro se* and *in forma pauperis*. He  
22 brings this civil rights action pursuant to 42 U.S.C. § 1983 and has moved for appointment of  
23 counsel. (Dkt. #15). Plaintiff has also written the Clerk of Court three letters, asking various  
24 questions about this lawsuit. (Dkt. #14, #17, #18). Having reviewed plaintiff's motion for  
25 appointment of counsel, his letters to the Clerk, and the balance of the record, the Court does  
hereby find and ORDER:

26    (1) Plaintiff's motion for appointment of counsel (Dkt. #15) is DENIED. There is no  
right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the Court,  
under 28 U.S.C. § 1915(e)(1), can request counsel to represent a party proceeding *in forma*  
*pauperis*, the Court may do so only in exceptional circumstances. *Wilborn v. Escalderon*, 789  
F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984);  
*Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires

01 an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to  
02 articulate his claims *pro se* in light of the complexity of the legal issues involved. *Wilborn*, 789  
03 F.2d at 1331.

04 Plaintiff has neither demonstrated a likelihood of success on the merits nor shown that, in  
05 light of the complexity of the legal issues involved, he is unable to articulate his claims himself.  
06 Accordingly, plaintiff has not demonstrated that this case involves exceptional circumstances that  
07 warrant appointment of counsel.

08 (2) Plaintiff's letters appear to ask whether he should file a tort claim in state court  
09 (Dkt. #14), whether a "state representative" could be appointed to assist him (Dkt. #17), and  
10 whether plaintiff could have an extension of time to submit "a claim for damages." (Dkt. #18).  
11 Plaintiff is advised that neither the Clerk nor this Court can provide him with legal advice, and the  
12 Court has determined that this case does not warrant appointment of counsel. Plaintiff is further  
13 advised that his original complaint in this matter already contains a claim for damages. (Dkt. #6  
14 at 2). Thus, it is not clear why plaintiff believes that he needs an extension of time.

15 (3) The Clerk is directed to send copies of this Order to plaintiff, to counsel for  
16 defendants, and to the Honorable Robert S. Lasnik.

17 DATED this 30th day of June, 2005.

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20 Mary Alice Theiler  
United States Magistrate Judge  
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